



General Assembly

February Session, 2010

Amendment

LCO No. 4600

SB0003104600SR0

Offered by:
SEN. WITKOS, 8th Dist.

To: Subst. Senate Bill No. 31

File No. 21

Cal. No. 45

***"AN ACT IMPLEMENTING THE BUDGET RECOMMENDATIONS OF
THE GOVERNOR CONCERNING THE EDUCATIONAL
PLACEMENT OF CHILDREN IN THE CARE AND CUSTODY OF
THE DEPARTMENT OF CHILDREN AND FAMILIES."***

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 10-233d of the 2010 supplement to the general
4 statutes is repealed and the following is substituted in lieu thereof
5 (*Effective July 1, 2010*):

6 (a) (1) Any local or regional board of education, at a meeting at
7 which three or more members of such board are present, or the
8 impartial hearing board established pursuant to subsection (b) of this
9 section, may expel, subject to the provisions of this subsection, any
10 pupil whose conduct on school grounds or at a school-sponsored
11 activity is violative of a publicized policy of such board or is seriously
12 disruptive of the educational process or endangers persons or property
13 or whose conduct off school grounds is violative of such policy and is

14 seriously disruptive of the educational process, provided a majority of
15 the board members sitting in the expulsion hearing vote to expel and
16 that at least three affirmative votes for expulsion are cast. In making a
17 determination as to whether conduct is seriously disruptive of the
18 educational process, the board of education or impartial hearing board
19 may consider, but such consideration shall not be limited to: (A)
20 Whether the incident occurred within close proximity of a school; (B)
21 whether other students from the school were involved or whether
22 there was any gang involvement; (C) whether the conduct involved
23 violence, threats of violence or the unlawful use of a weapon, as
24 defined in section 29-38, and whether any injuries occurred; and (D)
25 whether the conduct involved the use of alcohol.

26 (2) Expulsion proceedings pursuant to this section, except as
27 provided in subsection (i) of this section, shall be required whenever
28 there is reason to believe that any pupil (A) on school grounds or at a
29 school-sponsored activity, was in possession of a firearm, as defined in
30 18 USC 921, as amended from time to time, or deadly weapon,
31 dangerous instrument or martial arts weapon, as defined in section
32 53a-3, (B) off school grounds, did possess such a firearm in violation of
33 section 29-35 or did possess and use such a firearm, instrument or
34 weapon in the commission of a crime under chapter 952, or (C) on or
35 off school grounds, offered for sale or distribution a controlled
36 substance, as defined in subdivision (9) of section 21a-240, whose
37 manufacture, distribution, sale, prescription, dispensing, transporting
38 or possessing with intent to sell or dispense, offering, or administering
39 is subject to criminal penalties under sections 21a-277 and 21a-278.
40 Such a pupil shall be expelled for one calendar year if the local or
41 regional board of education or impartial hearing board finds that the
42 pupil did so possess or so possess and use, as appropriate, such a
43 firearm, instrument or weapon or did so offer for sale or distribution
44 such a controlled substance, provided the board of education or the
45 hearing board may modify the period of expulsion for a pupil on a
46 case by case basis, and as provided for in subdivision (2) of subsection
47 (c) of this section.

48 (3) Unless an emergency exists, no pupil shall be expelled without a
49 formal hearing held pursuant to sections 4-176e to 4-180a, inclusive,
50 and section 4-181a, provided whenever such pupil is a minor, the
51 notice required by section 4-177 and section 4-180 shall also be given to
52 the parents or guardian of the pupil. If an emergency exists, such
53 hearing shall be held as soon after the expulsion as possible. The notice
54 shall include information concerning legal services provided free of
55 charge or at a reduced rate that are available locally and how to access
56 such services.

57 (4) The local or regional board of education or the hearing board
58 established pursuant to subsection (b) of this section, may conduct
59 expulsion proceedings pursuant to this section, except as provided in
60 subsection (i) of this section, whenever the board of education or the
61 hearing board obtains information that a pupil has been convicted of a
62 crime involving a violation of section 53a-70, 53a-70a, 53a-72b, 53a-92,
63 53a-92a or subdivision (2) of subsection (a) of section 53-21. Such a
64 pupil may be expelled for one calendar year if the local or regional
65 board of education or impartial hearing board finds that the pupil was
66 convicted of such a crime, provided the board of education or the
67 hearing board may modify the period of expulsion for a pupil on a
68 case by case basis, and as provided in subdivision (2) of subsection (c)
69 of this section.

70 (b) For purposes of conducting expulsion hearings as required by
71 subsection (a) of this section, any local or regional board of education
72 or any two or more of such boards in cooperation may establish an
73 impartial hearing board of one or more persons. No member of any
74 such board or boards shall be a member of the hearing board. The
75 hearing board shall have the authority to conduct the expulsion
76 hearing and render a final decision in accordance with the provisions
77 of sections 4-176e to 4-180a, inclusive, and section 4-181a.

78 (c) (1) In determining the length of an expulsion and the nature of
79 the alternative educational opportunity to be offered under subsection
80 (d) of this section, the local or regional board of education, or the

81 impartial hearing board established pursuant to subsection (b) of this
82 section, may receive and consider evidence of past disciplinary
83 problems which have led to removal from a classroom, suspension or
84 expulsion of such pupil.

85 (2) For any pupil expelled for the first time pursuant to this section
86 and who has never been suspended pursuant to section 10-233c, the
87 local or regional board of education may shorten the length of or waive
88 the expulsion period if the pupil successfully completes a board-
89 specified program and meets any other conditions required by the
90 board. Such board-specified program shall not require the pupil or the
91 parent or guardian of the pupil to pay for participation in the program.

92 (d) Notwithstanding the provisions of subsection (a) of section 10-
93 220, local and regional boards of education shall only be required to
94 offer an alternative educational opportunity in accordance with this
95 section. Any pupil under sixteen years of age who is expelled shall be
96 offered an alternative educational opportunity during the period of
97 expulsion, provided any parent or guardian of such pupil who does
98 not choose to have his or her child enrolled in an alternative program
99 shall not be subject to the provisions of section 10-184. Any pupil
100 expelled for the first time who is between the ages of sixteen and
101 eighteen and who wishes to continue his or her education shall be
102 offered an alternative educational opportunity if he or she complies
103 with conditions established by his or her local or regional board of
104 education. Such alternative may include, but shall not be limited to, the
105 placement of a pupil who is at least sixteen years of age in an adult
106 education program pursuant to section 10-69. A local or regional board
107 of education shall count the expulsion of a pupil when he was under
108 sixteen years of age for purposes of determining whether an
109 alternative educational opportunity is required for such pupil when he
110 is between the ages of sixteen and eighteen. A local or regional board
111 of education may offer an alternative educational opportunity to a
112 pupil for whom such alternative educational opportunity is not
113 required pursuant to this section.

114 (e) Notwithstanding the provisions of subsection (d) of this section
115 concerning the provision of an alternative educational opportunity for
116 pupils between the ages of sixteen and eighteen, local and regional
117 boards of education shall not be required to offer such alternative to
118 any pupil between the ages of sixteen and eighteen who is expelled
119 because of conduct which endangers persons if it is determined at the
120 expulsion hearing that the conduct for which the pupil is expelled
121 involved (1) possession of a firearm, as defined in 18 USC 921, as
122 amended from time to time, or deadly weapon, dangerous instrument
123 or martial arts weapon, as defined in section 53a-3, on school property
124 or at a school-sponsored activity, or (2) offering for sale or distribution
125 on school property or at a school-sponsored activity a controlled
126 substance, as defined in subdivision (9) of section 21a-240, whose
127 manufacture, distribution, sale, prescription, dispensing, transporting
128 or possessing with the intent to sell or dispense, offering, or
129 administration is subject to criminal penalties under sections 21a-277
130 and 21a-278. If a pupil is expelled pursuant to this section for
131 possession of a firearm or deadly weapon the board of education shall
132 report the violation to the local police department or in the case of a
133 student enrolled in a regional vocational-technical school to the state
134 police. If a pupil is expelled pursuant to this section for the sale or
135 distribution of such a controlled substance, the board of education
136 shall refer the pupil to an appropriate state or local agency for
137 rehabilitation, intervention or job training, or any combination thereof,
138 and inform the agency of its action. Whenever a local or regional board
139 of education notifies a pupil between the ages of sixteen and eighteen
140 or the parents or guardian of such pupil that an expulsion hearing will
141 be held, the notification shall include a statement that the board of
142 education is not required to offer an alternative educational
143 opportunity to any pupil who is found to have engaged in the conduct
144 described in this subsection.

145 (f) (1) Whenever a pupil is expelled pursuant to the provisions of
146 this section, notice of the expulsion and the conduct for which the
147 pupil was expelled shall be included on the pupil's cumulative

148 educational record. Such notice, except for notice of an expulsion
149 based on possession of a firearm or deadly weapon as described in
150 subsection (a) of this section, shall be expunged from the cumulative
151 educational record by the local or regional board of education if a
152 pupil graduates from high school, except as provided for in
153 subdivision (2) of this subsection.

154 (2) In the case of a pupil for which the length of the expulsion
155 period is shortened or the expulsion period is waived pursuant to
156 subdivision (2) of subsection (c) of this section, such notice shall be
157 expunged from the cumulative educational record by the local or
158 regional board of education (A) if the pupil graduates from high
159 school, or (B) if the board so chooses, at the time the pupil completes
160 the board-specified program and meets any other conditions required
161 by the board pursuant to subdivision (2) of subsection (c) of this
162 section, whichever is earlier.

163 (g) A local or regional board of education may adopt the decision of
164 a pupil expulsion hearing conducted by another school district
165 provided such local or regional board of education or impartial
166 hearing board shall hold a hearing pursuant to the provisions of
167 subsection (a) of this section which shall be limited to a determination
168 of whether the conduct which was the basis for the expulsion would
169 also warrant expulsion under the policies of such board. The pupil
170 shall be excluded from school pending such hearing. The excluded
171 student shall be offered an alternative educational opportunity in
172 accordance with the provisions of subsections (d) and (e) of this
173 section.

174 (h) Whenever a pupil against whom an expulsion hearing is
175 pending withdraws from school after notification of such hearing but
176 before the hearing is completed and a decision rendered pursuant to
177 this section, (1) notice of the pending expulsion hearing shall be
178 included on the pupil's cumulative educational record, and (2) the
179 local or regional board of education or impartial hearing board shall
180 complete the expulsion hearing and render a decision. If such pupil

181 enrolls in school in another school district, such pupil shall not be
182 excluded from school in the other district pending completion of the
183 expulsion hearing pursuant to this subsection unless an emergency
184 exists, provided nothing in this subsection shall limit the authority of
185 the local or regional board of education for such district to suspend the
186 pupil or to conduct its own expulsion hearing in accordance with this
187 section.

188 (i) Prior to conducting an expulsion hearing for a child requiring
189 special education and related services described in subparagraph (A)
190 of subdivision (5) of section 10-76a, a planning and placement team
191 shall convene to determine whether the misconduct was caused by the
192 child's disability. If it is determined that the misconduct was caused by
193 the child's disability, the child shall not be expelled. The planning and
194 placement team shall reevaluate the child for the purpose of modifying
195 the child's individualized education program to address the
196 misconduct and to ensure the safety of other children and staff in the
197 school. If it is determined that the misconduct was not caused by the
198 child's disability, the child may be expelled in accordance with the
199 provisions of this section applicable to children who do not require
200 special education and related services. Notwithstanding the provisions
201 of subsections (d) and (e) of this section, whenever a child requiring
202 such special education and related services is expelled, an alternative
203 educational opportunity, consistent with such child's educational
204 needs shall be provided during the period of expulsion.

205 (j) An expelled pupil may apply for early readmission to school.
206 Except as provided in this subsection, such readmission shall be at the
207 discretion of the local or regional board of education. The board of
208 education may delegate authority for readmission decisions to the
209 superintendent of schools for the school district. If the board delegates
210 such authority, readmission shall be at the discretion of the
211 superintendent. Readmission decisions shall not be subject to appeal to
212 Superior Court. The board or superintendent, as appropriate, may
213 condition such readmission on specified criteria.

214 (k) Local and regional boards of education shall submit to the
215 Commissioner of Education such information on expulsions for the
216 possession of weapons as required for purposes of the Gun-Free
217 Schools Act of 1994, 20 USC 8921 et seq., as amended from time to
218 time.

219 (l) If a student who committed an expellable offense seeks to return
220 to a school district after having been in a juvenile detention center, the
221 Connecticut Juvenile Training School or any other residential
222 placement for one year or more, the district to which the student is
223 returning shall allow such student to return and may not expel the
224 student for additional time for such offense."